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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/859,528	03/19/2001	Sandro Pasquali	040.0058	8092

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EXAMINER

DURAN, ARTHUR D

ART UNIT PAPER NUMBER

3622

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/859,528	PASQUALI, SANDRO	
	Examiner	Art Unit	
	Arthur Duran	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-13 and 23-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-13 and 23-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 9-13 and 23-64 have been examined.

Response to Amendment

2. The Amendment filed on 1/5/2006 is insufficient to overcome the prior rejection.

Claim Rejections - 35 USC § 112

3. Claim 32 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 32 appears to be incomplete.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 9-11, 23-25, 32, 34-38, 43, 45-49, 54, 56-60 are rejected under 35 U.S.C. 102(e) as being anticipated by Gerace (5,848,396).

Claim 9, 23, 32, 43, 54: Gerace discloses a window object, system, method manifested within a windows based content manifestation, environment provided within a web browser client, comprising:

a content manifestation area configured to dynamically manifest advertising content received from an advertising content source via an electronic data network (Fig. 2; Fig. 3a; col 2, lines 3-30).

Gerace further discloses a control facility configured to control display attributes associated with said content manifestation area (col 5, lines 15-25).

Gerace further discloses a server system configured to transmit a software system and data related to a content source via an electronic data network (col 5, lines 15-25) and a web browser client, receiving said software system (col 6, lines 15-21; col 1, lines 44-51). Note that if the web browser software is distributed to the users that it is inherent that the users receive the web browsing software.

Gerace further discloses processing said software system and said data to produce a controllable window object within a content manifestation environment provided by said web browser (col 5, lines 15-25; col 6, lines 22-40; col 2, lines 3-30);

dynamically manifesting said content within said controllable window object in accordance with said data (col 5, lines 15-25; col 6, lines 22-40; col 2, lines 3-30).

Gerace further discloses that said windows object being under the direct control of the web browser (col 6, lines 15-21; col 1, lines 44-51).

Gerace further discloses the user utilizing a web browser and web browser software and distributing web browser software (col 6, lines 15-21; col 1, lines 44-51).

Claim 10, 24, 48: Gerace discloses the window object according to claim 9. Gerace further discloses that said content manifestation area is configured to dynamically receive content from at least one advertising content source (Fig. 2; Fig. 3a; col 5, lines 15-25; col 6, lines 22-40; col 2, lines 3-30).

Claim 11, 25, 38, 49, 60: Gerace discloses the window object according to claim 9. Gerace further discloses that said content manifestation area is configured to continuously receive and manifest a content stream (col 13, lines 50-61).

Claim 34-37, 45-47, 56-59: Gerace discloses the system according to claim 32. Gerace further discloses that said content source includes full motion video content, an audio feed (col 3, lines 5-10).

Gerace further discloses that said electronic data network is the Internet (col 3, lines 47-54).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 12, 13, 26-31, 33, 39-42, 44, 50-53, 55, 61-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerace (5,848,396).

Claim 12, 26: Gerace discloses the window object according to claim 9.

Gerace does not explicitly disclose that said content manifestation area is moveable and draggable within a content manifestation environment provided by a WWW browser.

However, Gerace discloses that said content manifestation area is moveable within a content manifestation environment provided by a WWW browser and that the position or placement of content screens can be modified (col 6, lines 30-40; col 11, lines 50-55).

Gerace further discloses utilizing sections in a screen view (col 2, lines 25-30; col 13, lines 50-61) and the utilization of a web browser (col 1, lines 44-51).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that a content area can be moved by being dragged. One would have been motivated to do this in order to provide a standard positional control option when utilizing a web browser environment.

Claim 13, 27-31, 33, 39-42, 44, 50-53, 55, 61-64: Gerace discloses the controllable window object according to claim 9, 23.

Gerace further discloses that said content manifestation area corresponds to a section of a screen within a content manifestation environment provided by a WWW browser client (col 6, lines 30-40; col 11, lines 50-55; col 2, lines 25-30; col 13, lines 50-61), wherein said control facility permits said content manifestation area to be re-sized or closed (col 11, lines 53-55).

Gerace further discloses control over size and placement of said controllable window object (col 3, lines 5-10; col 2, lines 24-28; col 6, lines 30-40; col 11, lines 50-55). Note that since Gerace has control over the size of different advertisements he also has control over the size of the screen that is utilized in presenting that advertisement.

Gerace does not explicitly disclose that the content manifestation area can be maximized or minimized.

However, Gerace discloses customization of screen format (col 11, lines 24-27), customization of screen positioning (col 11, lines 50-54) and customization of screen section sizes (col 6, lines 30-40). Gerace further discloses small screen options which can be clicked to expand into large screen options (col 13, lines 50-61). Gerace further discloses the utilization of a web browser (col 1, lines 44-51).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add maximizing or minimizing to Gerace' customizable screen interface. One would have been motivated to do this in order to provide further flexible display options.

Response to Arguments

6. Applicant's arguments with respect to the claims have been considered but are not found persuasive.

On page 4 of the Applicant's Remarks dated 1/5/2006, Applicant presents arguments concerning the 35 USC 112 rejection. Examiner notes that the claim 32 on page 4 does not correspond with the current copy of the claims on record. Claim 32 dated 4/2/2004 is chopped off and incomplete. Claim 32 does not exist in the copy of the claims dated 3/19/2001. No clean or current copy of the claims was sent in with the 1/5/2006 Arguments/Remarks. Hence, Examiner is using the 4/2/2004 electronic copy of the claims and claim 32 is incomplete in that copy. Hence, the 35 USC 112 rejection is still valid.

On page 6 Applicant states, "Nevertheless, Gerace does not disclose or suggest that the content manifestation area dynamically manifest/displays the advertising content to the user, and the Applicant respectfully submits that the content manifestation area statically manifest/displays the advertising content to the user."

However, Examiner notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art. Also, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van*

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Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). And, Examiner notes that claims are given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000).

And, Applicant's claims minimally state the features concerning "dynamically". Also, the Applicant's Specification describes "dynamic" or "dynamically" in several ways as follows:

"[0007] Despite their widespread use as tools to drive electronic commerce on the Internet and WWW, banner ads and other similar advertising and marketing mechanisms are not without their problems. For example, in addition to the fact that banner ads are statically displayed once loaded by a web browser, banner ads and other similar marketing tools do not allow different and dynamic marketing content to be displayed within a browser window. That is, a banner ad usually contains mere graphic image(s) (e.g., one that may contain animated graphics) which is associated with a single hypertext link ("hyperlink"). Such a banner ad cannot dynamically display content such as marketing and advertising content that is to be received via a network connection after an initial container web site page load.

[0008] Furthermore, in addition to the technical infirmities associated with modern banner ads, the same do not facilitate dynamic, rich advertising that network users have become used to in other media forums and which can deliver the most "bang for the buck" in terms of providing the highest possible sales return related to a particular marketing and promotion investment. For example, current banner ads do not come close to the richness of television or radio advertisements that allow full motion video, audio, etc. Accordingly, although network bandwidth capabilities do not currently allow the push of content like television ads, that same bandwidth is not being effectively deployed to facilitate richer, more effective network advertising.

[0021] Content is any form of digital data stream that may be supplied or sent to a computing system such as a personal computer. In the context of the present invention, content includes advertising information that may take the form of a data stream of video, audio, etc. Any media format that may be used to deliver active, dynamic content to a computer screen and other peripheral devices (e.g., sound systems, etc.) may be considered content in the context of the present invention.

[0035] The terms "dynamic manifestation" and "dynamic display" refer to the

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rendition of content such as advertising and marketing content received via an electronic data network such as the Internet and WWW within a window module provided in accordance with the present invention. For example, dynamic manifestation includes the display of a full motion video stream received from an ad content source (VRL) within a window module in accordance with the present invention.

[0045] As the present invention now provides a dynamic web based advertising vehicle that is different from the use of conventional banner advertisements, a whole new way of generating advertising revenue is realized. That is, in contrast to conventional banner advertisement revenue paradigms that call for cost per impression pricing, the present invention and its provision of a dynamic advertising content window now allow for the generation of advertising revenue according to paradigms used for television and other media forums. For example, advertisers who would normally pay for banner advertisement impressions may now place ads that are rich in content and that exist for periods of time much like television commercials and the like. Accordingly, advertising and marketing firms may now derive advertising revenue for "air time" of particular dynamic content advertisements."

Hence, Applicant's 'dynamic' or 'dynamically' can be interpreted broadly.

And, Gerace discloses dynamic advertising content or dynamic presentation of advertising content:

"(19) The Sponsor Object categorizes advertisement or other sponsor provided information according to content and presentation, including colors used, size, shape, and whether audio and/or video components are involved. An advertiser profile building routine automates the process of identifying colors, size, shape, and whether video and/or audio are involved (col 3, lines 4-10);

(13) With respect to the advertisement module 75, program controller 79 obtains sponsor submitted advertisements from module 75 and generates a screen view formatted according to user preferences as determined from the psychographic profile in the user profiling member 73. That is, program controller 79 enables display of advertisements customized to the user, as to content and presentation (i.e., colors used, orientation on the screen, audio/video components, and the like). Program controller 79 obtains the content from the advertisement module 75 and the presentation details for the subject user from the user profiling member 73 (col 5, lines 15-26);

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(53) Each ad forms a corresponding Ad Object 33d as illustrated in FIG. 5d. For a given advertisement, Ad Object 33d indicates to which series the advertisement belongs. To effectuate this, the Ad Object 33d indicates a series ID which references an Ad Series Object 33c, and indicates a series sequence (i.e., the ordering of the ads in a series). Ad Object 33d also includes the starting and ending time for display of the ad each day. Ad Object 33d also provides references to graphic, sound, and multimedia portions of an advertisement. A text-only format of an advertisement is used for users receiving messages on their own E-mail service or on a text-only browser (e.g., Links systems for VAX/VMS operating systems) rather than through the messaging feature of program 31 (col 12, lines 42-56; also see column 12, lines 23-42);

(62) Preferably the Home Page 43 (FIG. 4a) is an HTML (HyperText) document generated through the set of Page Objects 35a,b,c. The Home Page 43 describes to new users the data available at the program 31 Website and allows existing users to log in. The Home Page 43 is formed of several graphical and text documents in the HTML and Java formats. For example, behind the "stock data" menu selection a Stock Exchange ticker flashes, and behind the "weather" option, a display of clouds swirling over San Francisco and then sunshine over Washington, D.C. is shown. A clip of a newly released movie plays behind the "Media Schedule" option, and sports scores scroll behind the "Sports" option. At the bottom of the screen view are login fields and prompts (col 13, lines 47-61);

(69) Simultaneously main routine 39 updates User Action History Object 37e to reflect the user's selection of the "quick quotation" option. User Viewing History Object 37f notes that the user selected an option which had stock data present in blue, for example, with moving graphical elements (col 14, lines 60-65);

(87) To ensure that sponsors achieve the optimal result from the ads they place, program 31 combines regression analysis with the above weighting technique to achieve real-time, automatic optimization as discussed previously. Under this auto-targeting system, an ad package is shown to general users. After a large number (e.g., 10,000) hits, program 31 runs a regression on a subject Ad Package Object 33b to see what characteristics are important, and who (type of user profile) the ad appeals to most (col 18, lines 10-20);

(98) With respect to reporting, if the reports of program 31 show that customers respond to still advertisements more often than moving ones, bright

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colors more often than darker ones, graphics rather than text, large text rather than small, detailed text or square advertisements rather than bar style ones, such is relayed to the sponsors/advertisers (col 20, lines 19-25);

[Claim] 17. Method as claimed in claim 16 wherein the step of transmitting and displaying includes displaying agate information in predefined schedules to coordinate with at least one of television and radio broadcast of events generating the agate information.

[Claim] 18. Method as claimed in claim 16 wherein the step of displaying agate information further includes updating of the information, in real-time of the events generating the agate information, in a manner such that the agate information is viewable alongside television viewing of said events”.

Also, note that Gerace discloses that agate information can include content information and/or advertising information:

“(18) In accordance with another aspect of the present invention, there are Agate Objects for providing the agate information and a Sponsor Object. In a preferred embodiment, the agate information includes stock information, advertisements, sports statistics, weather reports and the like” (col 2, lines 60-65).

Hence, any of the features in Gerace that apply to agate information also apply to advertising information.

Hence, Gerace discloses that a wide variety of dynamic type content/advertising can be presented to the user, that a dynamic/real-time process can be utilized to determine what content/advertising to place in front of the user, and/or that a specific period of time can be set up as to when or for how long a particular advertisement(s) can be displayed.

Therefore, Gerace does disclose that the content manifestation area dynamically manifest/displays the advertising content to the user.

Hence, Gerace discloses the features of the Applicant’s claims.

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a. Angles (5,933,811) discloses targeted/customized content and format to users with a specialized downloadable software module on the client machine.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Arthur Duran
Primary Examiner
9/14/2006